

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON JUDICIARY**

**Call to Order:** By **VICE CHAIRMAN PAUL CLARK**, on January 23, 2001  
at 8:00 A.M., in Room 137 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Paul Clark, Vice Chairman (D)  
Rep. Jeff Laszloffy, Vice Chairman (R)  
Rep. Darrel Adams (R)  
Rep. Gilda Clancy (R)  
Rep. Aubyn A. Curtiss (R)  
Rep. Bill Eggers (D)  
Rep. Gail Gutsche (D)  
Rep. Christopher Harris (D)  
Rep. Linda Holden (R)  
Rep. Joan Hurdle (D)  
Rep. Jeff Mangan (D)  
Rep. Brad Newman (D)  
Rep. Mark Noennig (R)  
Rep. Diane Rice (R)  
Rep. Bill Thomas (R)  
Rep. Merlin Wolery (R)  
Rep. Cindy Younkin (R)

**Members Excused:** Rep. Jim Shockley, Chairman (R)  
Rep. Steven Gallus (D)

**Members Absent:** None.

**Staff Present:** John MacMaster, Legislative Branch  
Mary Lou Schmitz, Committee Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing(s) & Date(s) Posted: **HB 262 - 1-18-01**  
Executive Action: **HB 208 - DPAA**  
**HB 156 - DPAA**  
**HB 223 - DPAA**

HEARING ON HB 262

**Sponsor:** Rep. Allan Walters, HD 60, Hamilton said the Internet has revolutionized society, including how our children are educated. With its vast reach, the knowledge once contained in isolated distant locations is now accessible to millions of children at local libraries, schools and their homes. Unfortunately, the most violent offenses and graphic forms of pornography are also readily available. America's classrooms are wired with a direct line to Internet pornography, funded with tax dollars. Quite often parents and teachers cannot look over the shoulders of children as they access computers. This Bill is an Act adopting Public Schools Child Internet Protection Act.

**Proponents:** Karolin Loendorf, Lewis and Clark County Commissioner

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Harris Himes, Attorney/Pastor, Hamilton.

Dallas Erickson, representing Montana Citizens for Decency Through Law. **EXHIBIT**(juh18a01)

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Loy Frasier, Internet Service Provider, Helena.

Julie Millam, Executive Director, Christian Coalition  
**EXHIBIT**(juh18a02)

Bruce King, Hamilton, H.O.M.E

Jerry Fleischmann, Corvallis, H.O.M.E

Shannon Bennett, Hamilton, H.O.M.E.

Jeannie Poe, Hamilton, H.O.M.E.

**EXHIBIT**(juh18a03) **EXHIBIT**(juh18a04) **EXHIBIT**(juh18a05)  
**EXHIBIT**(juh18a06) **EXHIBIT**(juh18a07) **EXHIBIT**(juh18a08)

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**Opponents:** Bob Vogel, Director, Governmental Relations with the Montana School Boards' Association said this Bill, as currently drafted, has an unfunded mandate by requiring a school district to purchase filtering software service without any funding mechanism to do so.

Lois Fitzpatrick, Montana Library Association  
**EXHIBIT**(juh18a09).

Eric Feaver, MEA-MFT

Informational Witness: Bill Cooper, Deputy, Superintendent of Public Instruction.

Questions from Committee Members and Responses: Rep. Curtiss to Eric Feaver considering federal funding and asked Mr. Feaver if there are any schools in Montana who do not receive federal funding. Mr. Feaver said there is no school in the state that does not receive some sort of federal funding.

Rep. Curtiss said her grandson attended a public school last year and was accessing some material he was outraged over. At the same time children are curious and when they find something that will be of interest to their friends, they share it.

Reps. Peterson, Laszloffy, Gutsche, Hurdle, Curtiss, to Mr. Feaver, Bob Vogel, Lois Fitzpatrick, Loy Frasier and Scott Buswell, Administrator, Information and Support Services, OPI; for clarification.

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Rep. Adams asked Ms. Fitzpatrick to explain her comment about "false sense of security" and if the filters were on would they be effective? Ms. Fitzpatrick said that if people assume that these filters will screen out 100% of harmful material, they may be mistaken and maybe they wouldn't be as vigilant in seeing what children are actually looking at. With the acceptable use policies they have to check what is being used in libraries and on the computers and she feels people won't pay as much attention and will assume everything "harmful" is screened out when that may not be the case.

Reps. Harris, Thomas, Mangan, Holden, Gutsche, Curtiss, Noennig, Clark to Mr. Erickson; Mr. Feaver; Mr. Himes; Rep. Walters, Sponsor; Mr. Buswell; Mr. Cooper; Mr. Frasier, Mr. Vogel for clarification.

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*{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 15.0}*

Closing by Sponsor: Rep. Walters closed the Hearing on HB 262.

EXECUTIVE ACTION ON HB 223

Motion: REP. YOUNKIN moved that HB 223 DO PASS. #1

Motion: REP. NOENNIG moved that HB 223 BE AMENDED. #2  
**EXHIBIT**(juh18a10)

Discussion: Rep. Noennig explained his amendment.

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Discussion: Reps. Gutsche, Younklin asked Rep. Noennig for further explanation.

Vote: The Noennig amendment, EXHIBIT #10 passed unanimously 18-0

Motion: REP. YOUNKIN moved that HB 223 DO PASS AS AMENDED. #3

Discussion: Reps. Mangan, Noennig, Newman.

Motion: REP. GUTSCHE moved a conceptual amendment to HB 223. #4

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Discussion: Rep. Peterson suggested wording for the above amendment. Line 3, based upon the last known address and believed whereabouts of the person. Rep. Mangan suggested language too.

Motion: REP. PETERSON moved a substitute motion to HB 223, language on line 3. #5

Discussion: Reps. Eggers, Noennig, Clark.

Vote: Peterson amendment (#5) passed 18-1 with Rep. Clark voting no.

Discussion: Reps. Wolery, Laszloffy, Noennig, Younklin, Gutsche, Newman, Eggers, Thomas, Shockley, Peterson, Mr. MacMaster

Motion/Vote: REP. NOENNIG moved that HB 223 BE AMENDED to change the (4) to a (1) on lines 20 and 21. #6 Motion carried unanimously 19-0.

Motion: REP. YOUNKIN moved that HB 226 DO PASS AS AMENDED. #3  
Motion carried unanimously 19-0.

*{Tape : 3; Side : A; Approx. Time Counter : 11 - 29.2}*

*{Tape : 3; Side : B; Approx. Time Counter : 0.1 - 28.3}*

**EXECUTIVE ACTION ON HB 156**

**Motion:** REP. YOUNKIN moved that HB 156 DO PASS. #7

**Motion:** REP. HARRIS moved a substitute motion that HB 156 BE AMENDED. #8 EXHIBIT(juh18a11)

**Discussion:** Rep. Harris briefly described the purpose of the amendments.

**Discussion:** Rep. Younkin asked John MacMaster for clarification. Mr. MacMaster said there are a number of places and a number of titles of the code where a civil penalty is provided for in a number of different contexts. It works with whatever government agency, which is usually a department of the state government or a county prosecutor, has regulatory authority over that area. There are a number of civil penalties. A good example is gambling laws. All the gambling laws are enforced by the Attorney General except for horse racing and lottery.

**Discussion:** Reps. Peterson, Harris, to Brenda Nordlund, Department of Justice; Hurdle, Adams, Noennig, Eggers.

**Motion/Vote:** REP. HARRIS moved a substitute motion to add the word "conspicuous" before notice as an amendment to HB 156. #9. Motion carried unanimously, 18-0.

**Motion:** REP. NOENNIG moved that HB 156 BE AMENDED, moving #1 and add to that a deletion - strike 2-7 and add to that a deletion #4 of Rep. Harris' amendment EXHIBIT(juh18a12). #10

**Discussion:** Reps. Clancy, Harris, Eggers, Noennig, Adams.

**Vote:** The Noennig amendment #12 passed 16-1 with Rep. Harris voting no.

**Motion:** REP. WOLERY moved that HB 156 BE AMENDED. #11

**Discussion:** Reps. Newman to Rep. Wolery, Noennig, Mangan

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**Discussion:** Reps. Noennig, Harris.

**Vote:** The Wolery amendment #11 failed 6-13.

Motion: REP. HURDLE moved that HB 156 BE AMENDED to delete all of Section 2. #12

Discussion: Reps. Clancy, Adams, Shockley

Vote: Motion #12 failed 2-17 with Reps. Gutsche and Hurdle voting yes.

Motion/Vote: REP. MANGAN moved that HB 156 DO PASS AS AMENDED. #13. Motion carried 14-5 with Reps. Shockley, Hurdle, Newman, Thomas and Wolery voting no.

EXECUTIVE ACTION ON HB 208

Motion: REP. HARRIS moved that HB 208 DO PASS. #14

Motion: REP. HARRIS moved that HB 208 BE AMENDED. #15

Discussion: Rep. Noennig, Harris

Vote: Motion carried unanimously 19-0

Motion/Vote: REP. MANGAN moved that HB 208 DO PASS AS AMENDED. #16 Motion carried unanimously 19-0.

**ADJOURNMENT**

Adjournment: 12:00 P.M.

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REP. JIM SHOCKLEY, Chairman

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MARY LOU SCHMITZ, Secretary

JS/MS

**EXHIBIT** (juh18aad)